

UNITED STATES DISTRICT COURT

for the
Western District of Washington

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

Facebook account cassie.jean.bebereia, more fully
described in Attachment A.

Case No.

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WESTERN DISTRICT OF WASHINGTON AT TACOMA
BY DEPUTY

MJ19-5233

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Facebook account cassie.jean.bebereia, more fully described in Attachment A, incorporated herein by reference.

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, incorporated herein by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description

18 U.S.C. §§ 641, 1001, 1361 Theft of government property; false statements; depredation of government property
 18 U.S.C. §§ 3372, 1855, 844 Trafficking in illegally cut timber; setting timber afire; using fire in furtherance of felony
 18 U.S.C. § 371 Conspiracy to commit offenses against the United States

The application is based on these facts:

- See Affidavit of David Jacus, continued on the attached sheet.

Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Pursuant to Fed. R. Crim. P. 4.1, this warrant is presented: by reliable electronic means; or: telephonically recorded.

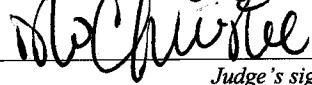


Applicant's signature

David Jacus, Law Enforcement Officer, USFS

Printed name and title

- The foregoing affidavit was sworn to before me and signed in my presence, or
- The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone.

Date: 11/20/2019


Judge's signature

City and state: Tacoma, Washington

David W. Christel, United States Magistrate Judge

Printed name and title

AFFIDAVIT

County of Jefferson)
)
State of Washington)

I, David Jacus, a Law Enforcement Officer with the U.S. Forest Service on the Olympic National Forest, Quilcene, WA, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

8 1. I have been employed as a Law Enforcement Officer with the U.S. Forest
9 Service, Law Enforcement and Investigations, since March 2009, and am currently
10 assigned to the Olympic National Forest. My duties include detection and enforcement of
11 criminal law offenses and apprehending persons who committed or were suspected of
12 committing offenses on or affecting the National Forest System, to include natural resource
13 crimes. Prior to my employment with the United States Forest Service, I was a Law
14 Enforcement Park Ranger with the National Park Service stationed at North Cascades
15 National Park, Marblemount, WA. My duties were enforcing federal laws and regulation
16 related to the management and protection of the National Park.

17 2. I have completed the Federal Law Enforcement Training Center's Land
18 Management Police Training Academy at Glynco, GA in February 2008. I graduated from
19 the National Park Service Seasonal Law Enforcement Academy at Santa Rosa Community
20 College in 2003. In May 1998, I earned a Bachelor of Science degree in environmental
21 studies from University of Buffalo, NY.

22 3. The information in this Affidavit is based upon the investigation I have
23 conducted in this case, my conversations with other law enforcement officers who have
24 engaged in various aspects of this investigation, and my review of reports written by other
25 law enforcement officers involved in this investigation.

26 4. Because this Affidavit is being submitted for the limited purpose of securing
27 a search warrant, I have not included each and every fact known to me concerning this
28 investigation. I have set forth only those facts that I believe are relevant to a determination

1 of probable cause to support the issuance of the requested warrant. When the statements
 2 of others are set forth in this affidavit, they are set forth in substance and in part.

3 **PURPOSE OF APPLICATION**

4 5. I make this Affidavit in support of an application under Rule 41 of the Federal
 5 Rules of Criminal Procedure and 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A)
 6 to require Facebook for a warrant for information associated with the Facebook account
 7 cassie.jean.bebereia (the “SUBJECT ACCOUNT”), stored at premises controlled by
 8 Facebook, a social media platform headquartered at 1601 Willow Road, Menlo Park, CA
 9 94025. This information is further described in Attachment A.

10 6. As further discussed below, the Subject Account is maintained by a Hood
 11 Canal-area resident named Cassie Bebereia. Bebereia is presently referenced as an
 12 unindicted co-conspirator in a pending criminal case. Bebereia is herself presently under
 13 investigation for conspiracy in violation of 18 U.S.C. § 371 and making false statements in
 14 violation of 18 U.S.C. § 1001. I previously obtained a warrant from this Court to search a
 15 cell phone in Bebereia’s possession. The results of that search, as well as other subsequent
 16 investigation, establishes probable cause to believe that material relevant to the
 17 investigation of Bebereia and her boyfriend, Justin Wilke, exists in Bebereia’s Facebook
 18 account.

19 7. Accordingly, the search warrant would require Facebook to disclose to the
 20 government copies of the information (including the content of communications) further
 21 described in Section I of Attachment B. Upon receipt of the information described in
 22 Section I of Attachment B, government-authorized persons will review that information to
 23 locate the items described in Section II of Attachment B.

24 **BACKGROUND ON INVESTIGATION**

25 8. ***The Maple Fire Investigation:*** On August 4th, 2018, at approximately 2
 26 p.m., I learned from the Puget Sound Interagency Communications Center about a wildland
 27 fire, hereafter referred to as the “Maple Fire,” near Elk Lake, in the Olympic National
 28 Forest. Firefighters who initially responded to the fire stated that it was, at the fire’s

1 inception, burning in a big-leaf maple tree near Jefferson Creek. About one hour later,
 2 when I arrived at the forest road spur leading to the trailhead closest to the fire's origin site,
 3 I spotted a Lilliwaup, Washington resident named Justin Wilke driving out of that short
 4 spur road. Shortly thereafter, I met and interviewed Wilke and Lucas Chapman, both of
 5 whom were camping at a nearby campsite. Wilke stated that he was on the spur road
 6 because he had been using a restroom at the trailhead. Wilke further stated that he knew
 7 nothing about the fire, that he had not been harvesting timber, and that he did not have a
 8 chainsaw with him at the campsite. I also met and interviewed Cassie Bebereia, believed
 9 to be Wilke's girlfriend, who similarly stated that Wilke had not been harvesting timber,
 10 and similarly insisted that Wilke did not have a chainsaw with him at the campsite.

11 9. Firefighters located several items at the fire's origin site: a gas can, a
 12 Gatorade bottle, two aerosol cans of wasp killer, and a backpack filled with tools associated
 13 with harvesting timber, including chainsaw chains, a coring tool used to drill into trees, and
 14 other tools, as well as a sweatshirt, keys, and headlamp. Alan Richert, Wilke's neighbor
 15 at the time and sometime logging partner, later identified the sweatshirt as Wilke's and
 16 would identify one tool, a pair of channel locks, as being Richert's own property, which
 17 had gone missing.

18 10. On August 8th, 2018, Washington State Department of Natural Resources
 19 Fire Investigator Albert Kassel performed a Cause and Origin Investigation with respect to
 20 the Maple Fire. Investigator Kassel determined the fire was human-caused and had started
 21 at the base of the maple tree identified by firefighters who initially responded to the fire.
 22 Both I and Investigator Kassel also noticed that the maple tree had several areas from which
 23 the bark had been intentionally scraped or cut away, a method commonly used by timber
 24 thieves to "check" the quality of a tree's wood prior to logging the tree. Based on the
 25 presence of these check marks on the tree at the origin of the fire and the logging equipment
 26 recovered in the vicinity of that tree, law enforcement concluded that maple poachers had
 27 likely been preparing to log that tree when the fire began.

28

1 11. On August 13th, 2018, law enforcement received a tip from Karen Kenmir,
 2 who related information from her sister, who had heard that three individuals, named
 3 "Cassie, Justin, and Thor," had been attempting to kill bees using fire, but that the fire "got
 4 away" from them. A few days later, law enforcement identified "Thor" as Shawn
 5 Williams.

6 12. On August 23rd 2018, law enforcement interviewed Richert. Richert stated
 7 that he has logged with Wilke in the past, and had taught Wilke how to log trees, and that
 8 he often saw Wilke that summer processing maple wood blocks outside Wilke's residence,
 9 a short distance from Richert's residence. Richert will later stated under oath that he had
 10 seen Wilke use a Stihl 460 chainsaw to cut wood.

11 13. Richert also stated in his initial interview that Wilke had admitted to Richert
 12 the following: Wilke, Chapman, and Williams had been attempting to cut down and process
 13 a maple tree, but there was a bee hive in the tree, so the three of them poured gasoline on
 14 the tree and lit it in an attempt to kill the bees. The group believed the fire was extinguished
 15 before they departed the area. Richert stated that Williams and Bebereia were present when
 16 Wilke was talking about the incident leading to the Maple Fire. When re-interviewed in
 17 2019, and when he spoke under oath in this case, Richert recalled Williams, rather than
 18 Wilke, had related the story described above regarding the origin of the Maple Fire, and
 19 that Wilke, though present during the conversation, had stated something to the effect of
 20 "I didn't do anything" during Williams' conversation with Richert.

21 14. Marty Thompson, another neighbor of Richert's and Wilke's, was also
 22 interviewed on August 23, 2018. He stated that he had not seen Wilke or Bebereia in "a
 23 while."

24 15. Law enforcement next learned from Jason Roberts, the owner of a wood-
 25 processing mill in Tumwater, Washington, that he had purchased maple wood blocks from
 26 Wilke from April through August 2018. Jason Roberts had last spoken to Wilke on August
 27 2nd, 2018, while purchasing maple blocks from Wilke. Roberts' ledger detailed 21 sales
 28 of maple wood from Wilke to Roberts between April 25 and August 2, 2018, including a

1 large sale on July 3, 2018. The ledger further detailed the Washington State Specialized
 2 Forest Products permit number associated with each sale. Based on the ledger, Wilke
 3 presented one of two such permits to Roberts during each of the sales on Roberts's ledger.
 4 One of the two property owners listed on those permits, Marlane Hoback, informed law
 5 enforcement that she did not have any maple trees on her property, and that neither Justin
 6 Wilke nor Alan Richert (the individual listed as the seller on the permit) had removed any
 7 wood from her property. Hoback's permit was used by Wilke to sell wood to Roberts on
 8 11 occasions between April 25 and June 15, 2018.¹

9 16. Law enforcement collected samples of the wood that Roberts identified as
 10 having been purchased from Wilke. Law enforcement also identified and took wood
 11 samples from three maple trees that had been illegally logged in the near vicinity (within a
 12 quarter mile) of the maple tree that was the origin site of the Maple Fire. Subsequent DNA
 13 testing of those samples, as well as the samples collected from Roberts' mill, revealed that
 14 a significant fraction (83 total blocks of wood, out of a total of approximately 225 blocks)
 15 of that wood that Wilke sold to Roberts came from the three maple trees located in the
 16 Olympic National Forest and near the maple tree that was the origin site of the Maple Fire.

17 17. Law enforcement has also interviewed Lucas Chapman on several occasions.
 18 Initially, Chapman denied any involvement in logging in the national forest and stated that
 19 he had not seen Wilke with a chainsaw. Chapman later recanted that story, and both told
 20 law enforcement and testified that, on a camping trip with Wilke, Williams, and Bebereia,
 21 Wilke had led Chapman and Williams in walks in the area near Jefferson Creek and Elk
 22 Lake, looking at potential maple trees to harvest. Chapman was going to be paid by Wilke
 23 to help carry out blocks of maple wood. On August 4, 2018, Chapman was with Wilke and

24
 25
 26 ¹ The second property owner listed on those permits, Charles Budd, stated that Wilke removed
 27 only a portion of the wood that he was supposed to remove from Budd's property. Investigators
 28 have sampled a tree from Budd's property that Wilke allegedly harvested to determine whether
 that tree is a maple tree and whether that tree represents a DNA match to any of the wood that
 Wilke sold to Roberts during the summer of 2018. The results of that DNA testing have, to date,
 been inconclusive.

1 Williams when they encountered the maple tree at the origin of the Maple Fire. Chapman
 2 stated that a bee's nest prevented them from logging the tree, so they sprayed the bee's nest
 3 with wasp killer spray. When that did not work, Wilke set fire to the bee's nest. Chapman
 4 was later called over to help Wilke and Williams put out the fire using Gatorade bottles.
 5 When they believed the fire was out, Chapman returned to the campsite with Wilke and
 6 Williams. During an interview with law enforcement, Chapman stated that Wilke had a
 7 chainsaw with them on the camping trip and that Wilke had hidden the chainsaw in the
 8 forest after being confronted by law enforcement about the fire.

9 18. Law enforcement also interviewed Sondra Palafox and Samuel Davies, who
 10 confirmed that they went on a camping trip with Justin Wilke into an area near Elk Lake,
 11 and so near the origin site of the Maple Fire, in early July 2018. Palafox and Davies stated
 12 that they did not see or hear Wilke log maple wood during this trip, but Palafox stated
 13 under oath that Wilke left the campsite for significant periods of time, and left the campsite
 14 at one point in his car. A U.S. Forest Service employee, Jeffrey Gehring, later stated that
 15 in the same area, on July 2, 2018, he saw two white males, one described as bald with facial
 16 hair and the other wearing a hoodie sweatshirt with the hood pulled up, walking down the
 17 spur road from the mainline FR 2401 with a black dog. Gehring believed these two
 18 individuals were associated with a nearby vehicle—based on their proximity to the vehicle,
 19 the absence of other vehicles or people nearby, and the vehicle's windows being down,
 20 indicating that its owner was nearby—that contained a chain saw, a log chain, and rope in
 21 its truck bed.

22 19. ***The Pending Charges:*** On August 28, 2019, Wilke and Williams were
 23 indicted in eight-count indictment charging conspiracy in violation of 18 U.S.C. § 371;
 24 theft of public property in violation of 18 U.S.C. § 641; depredation of public property in
 25 violation of 18 U.S.C. § 1361; trafficking in unlawfully harvested timber in violation of
 26 the Lacey Act, 16 U.S.C. §§ 3372(a)(1) and 3373(d); setting timber afire in violation of 18
 27 U.S.C. § 1855; and using fire in furtherance of a felony in violation of 18 U.S.C.
 28 § 844(h)(1). That case is currently pending trial and is cause number CR19-5364BHS.

1 Bebereia is the unindicted co-conspirator referred to as "Person 1" in the Indictment. The
 2 indictment alleges that Bebereia accompanied Wilke during some of the offense conduct,
 3 and further, that she provided false information to me on the day I responded to the fire.

4 20. *Interview of Cassie Bebereia:* On November 4, 2019, I interviewed Cassie
 5 Bebereia, who, as noted above, is believed to be Wilke's girlfriend. Bebereia made
 6 statements during the interview that are contradicted by known evidence, and that therefore
 7 appear to be false. For example, Bebereia denied that either she or Wilke was involved in
 8 logging in the national forest or in setting the Maple Fire. Bebereia further stated that
 9 neither Wilke, Chapman, nor Williams had a chainsaw in their possession when they were
 10 camping during the days leading up to August 4, 2018. However, mill owner Jason Roberts
 11 testified, and his business records corroborate, that at least Wilke and Thor sold maple to
 12 Roberts on August 2, 2018. DNA evidence establishes that this maple originated from a
 13 tree located within approximately 250 yards downstream from the camp site where
 14 Bebereia, Chapman, and Wilke were observed on August 4, 2018. Bebereia also conceded
 15 that she had been sick and inside her tent for most of the August 4, 2018 camping trip with
 16 Wilke in the area of the national forest near where the fire began. Based in part on this
 17 interview, Bebereia is currently under investigation for making false statements under 18
 18 U.S.C. § 1001.

19 21. Bebereia stated that on August 4, 2018, after the fire had begun, she both
 20 called and texted a friend of hers, Drew Parks, and requested that Parks help her and Wilke
 21 by driving to Wilke's campsite to help them leave the area given the presence the forest
 22 fire. (Parks stated to law enforcement in a prior interview that he had in fact driven into
 23 the national forest that day, and had given Williams a ride home after the fire had already
 24 begun).

25 22. When asked what phone she currently used, Bebereia stated that she was
 26 attempting to have a phone set up for her, and then stated that she was currently using a
 27 phone that she identified as Wilke's phone, which she produced. She also provided the
 28 phone number for that phone as 360-401-9879. In a subsequent interview with Drew Parks

1 on November 5, 2019, Parks informed me that Bebereia had communicated with him using
 2 that phone number within the last few weeks. During his initial interview with law
 3 enforcement on August 23, 2018, Richert provided the same phone number—360-401-
 4 9879—as the then-correct phone number for Justin Wilke.

5 23. At a later point in the interview, Bebereia showed me what I believed to be
 6 text messages on the phone from November 2018 that she stated were between her and
 7 another individual regarding a chainsaw that was allegedly stolen from Wilke during the
 8 summer of 2018. Bebereia stated that the text messages proved that Wilke did not have a
 9 chainsaw with which to log maple during August 4, 2018. However, when I examined the
 10 text messages, I observed that in one message Bebereia told the recipient individual that
 11 the chainsaw that was allegedly stolen was *not* Wilke's chainsaw, which was directly
 12 contrary to the statement Bebereia had just made to me. The communications included a
 13 picture of the chainsaw that had allegedly been stolen.

14 24. ***The November 6 Search Warrant and Discovery of Facebook Messenger***
 15 **Chats:** On November 6, 2019, the Honorable David Christel issued a search warrant
 16 authorizing law enforcement to search the phone for certain communications. On
 17 November 18, 2019, while searching the device in “airplane mode”, I realized that the
 18 messages that Bebereia had shown me on November 4, 2019 were not text messages.
 19 Instead, those messages could be accessed from the Facebook application on the device,
 20 by selecting the Facebook messenger icon within the Facebook application. Within this
 21 Facebook messenger section of the Facebook application, I could access messenger
 22 communications dating back to September of 2018; those communications were grouped
 23 into “threads” based on the other user with whom the user of the Facebook app was
 24 communicating. These appear under the heading “Chats.”

25 25. However, it appeared that there were other messenger communications that
 26 were not visible on the phone. For certain messenger communication threads—and
 27 specifically the communication thread with user “justin.wilke.52”—it appeared that I could
 28 not see all of the messages in the thread. Instead, at the bottom of the screen, the words

1 “Load more ...” appear. The device appears unable to load more messages while in
 2 “airplane mode.” Similarly, though there are 39 conversations listed under the “Chats”
 3 heading, at the bottom of the listed conversations, the words “See more” are present. I
 4 understand that to mean that, if the device were able to connect to Facebook’s servers (that
 5 is, if it were not in “airplane mode”), the user of the device could access additional “Chats”
 6 with other users that are not accessible while the device is in “airplane mode.”

7 26. ***Review of Recorded Calls:*** On November 19, 2019, I reviewed recorded
 8 calls placed from the detention facility at FDC SeaTac by Justin Wilke. On October 9,
 9 2019, Wilke placed a call to the phone number 360-401-9879. A voice I recognize as
 10 Bebereia’s can be heard picking up that phone. During that call, Wilke states that “Marty
 11 and Alan told them that I left all that shit behind, ... and I was running from em. That
 12 wasn’t the case, they didn’t let ... me come back and get my stuff.” Later, Bebereia states
 13 “They didn’t want us down there” and “[unintelligible] on Facebook there’s still messages
 14 saying ... telling us not to come home, I’m sure there probably is.” Wilke responds: “Yeah,
 15 you need to give that to my lawyer.” Based on the fact that Marty Thompson and Alan
 16 Richert are former neighbors of Wilke and Bebereia, each of whom cooperated with law
 17 enforcement, in this call I understand Wilke to be referring to Thompson and Richert when
 18 he says “Marty and Alan” and Bebereia to be referring to Thompson and Richert when she
 19 says “They didn’t want us down there.”

20 27. In a phone call on October 10, 2019, Wilke called someone whom Wilke
 21 referred to as “Mom” throughout this and other conversations. At one point, Wilke states
 22 “Marty and Alan told the cops that I was fleeing from them, I was running from them, and
 23 all that stuff, but when Marty fucking sent me a text, he kinda fucked up, he sent me a text,
 24 he said, ‘Don’t ever come back here again or I’m gonna shoot ya.’ You know what I mean?
 25 When you send a text like that, I’m going to save that shit.”

26 28. In a phone call on October 12, 2019, Wilke again placed a call to the phone
 27 number 360-401-9879. Again, a voice I recognize as Bebereia’s can be heard picking up
 28 that phone. During that call, Wilke asks about Bebereia’s communications with his lawyer.

1 She states: "He just kept emailing me, saying cool thanks send me more messages, but
 2 that's the only message we had." Bebereia later states: "And hopefully, with that message,
 3 or the message that I sent him, it doesn't sound very good for us, for the most part, but it's
 4 just, bullshit, but it does state that, uh, we were told not to come back and shit and that the
 5 feds will catch up to us sooner or later ... and it does say, don't come back." Based on
 6 that conversation and the two prior conversations, I believe that Bebereia located the
 7 Facebook message she was referring to from Marty Thompson. Bebereia's statement that
 8 the message "doesn't sound very good for us" suggests that the message contains relevant,
 9 and potentially incriminating, information, particularly with respect to flight.

10 29. I was unable to access any communications with a user identifiable as Marty
 11 Thompson, and I was unable to access any communications that matched the description
 12 provided by Bebereia and Wilke in their jail call communications. Therefore, I believe
 13 these messages likely reside outside of the phone, in servers or data maintained by
 14 Facebook.

15 30. The user image for the Facebook application on the phone is an image of
 16 Bebereia that matches the image of Bebereia that appears on the front page of the
 17 SUBJECT ACCOUNT when it is viewed publicly. For that reason, I believe the messages
 18 referenced above regarding a chain saw were contained in the SUBJECT ACCOUNT.

19 31. I believe that the SUBJECT ACCOUNT is likely to contain communications
 20 the content of which would serve as potential evidence of the crimes charged in this case,
 21 namely conspiracy in violation of 18 U.S.C. § 371; theft of public property in violation of
 22 18 U.S.C. § 641; depredation of public property in violation of 18 U.S.C. § 1361;
 23 trafficking in unlawfully harvested timber in violation of the Lacey Act, 16 U.S.C.
 24 §§ 3372(a)(1) and 3373(d); setting timber afire in violation of 18 U.S.C. § 1855; using fire
 25 in furtherance of a felony in violation of 18 U.S.C. § 844(h)(1), and making false
 26 statements in violation of 18 U.S.C. § 1001.

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 28

32. Further, I believe that the SUBJECT ACCOUNT may have information helpful to identifying the individuals seen by Jeff Gehring in the national forest on July 2, 2018, including photographs of Justin Wilke and/or his pet dog(s) around that time.

BACKGROUND ON FACEBOOK'S SERVICES

33. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

34. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

35. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend Request.” If the recipient of a “Friend Request” accepts the request, then the two users will become “Friends” for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “News Feed,” which highlights information about the user’s “Friends,” such as profile changes, upcoming events, and birthdays.

36. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who

1 are not Facebook users. A Facebook user can also create “lists” of Facebook friends to
2 facilitate the application of these privacy settings. Facebook accounts also include other
3 account settings that users can adjust to control, for example, the types of notifications they
4 receive from Facebook.

5 37. Facebook users can create profiles that include photographs, lists of personal
6 interests, and other information. Facebook users can also post “status” updates about their
7 whereabouts and actions, as well as links to videos, photographs, articles, and other items
8 available elsewhere on the Internet. Facebook users can also post information about
9 upcoming “events,” such as social occasions, by listing the event’s time, location, host, and
10 guest list. In addition, Facebook users can “check in” to particular locations or add their
11 geographic locations to their Facebook posts, thereby revealing their geographic locations
12 at particular dates and times. A particular user’s profile page also includes a “Wall,” which
13 is a space where the user and his or her “Friends” can post messages, attachments, and
14 links that will typically be visible to anyone who can view the user’s profile.

15 38. Facebook allows users to upload photos and videos, which may include any
16 metadata such as location that the user transmitted when s/he uploaded the photo or video.
17 It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or
18 video. When a user is tagged in a photo or video, he or she receives a notification of the
19 tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos
20 associated with a user’s account will include all photos and videos uploaded by that user
21 that have not been deleted, as well as all photos and videos uploaded by any user that have
22 that user tagged in them.

23 39. Facebook users can exchange private messages on Facebook with other
24 users. Those messages are stored by Facebook unless deleted by the user. Facebook users
25 can also post comments on the Facebook profiles of other users or on their own profiles;
26 such comments are typically associated with a specific posting or item on the profile. In
27 addition, Facebook has a chat feature that allows users to send and receive instant messages
28 through Facebook Messenger. These chat communications are stored in the chat history

1 for the account. Facebook also has Video and Voice Calling features, and although
2 Facebook does not record the calls themselves, it does keep records of the date of each call.

3 40. If a Facebook user does not want to interact with another user on Facebook,
4 the first user can “block” the second user from seeing his or her account.

5 41. Facebook has a “like” feature that allows users to give positive feedback or
6 connect to particular pages. Facebook users can “like” Facebook posts or updates, as well
7 as webpages or content on third-party (i.e., non-Facebook) websites. Facebook users can
8 also become “fans” of particular Facebook pages.

9 42. Facebook has a search function that enables its users to search Facebook for
10 keywords, usernames, or pages, among other things.

11 43. Each Facebook account has an activity log, which is a list of the user’s posts
12 and other Facebook activities from the inception of the account to the present. The activity
13 log includes stories and photos that the user has been tagged in, as well as connections
14 made through the account, such as “liking” a Facebook page or adding someone as a friend.
15 The activity log is visible to the user but cannot be viewed by people who visit the user’s
16 Facebook page.

17 44. Facebook also has a Marketplace feature, which allows users to post free
18 classified ads. Users can post items for sale, housing, jobs, and other items on the
19 Marketplace.

20 45. In addition to the applications described above, Facebook also provides its
21 users with access to thousands of other applications (“apps”) on the Facebook platform.
22 When a Facebook user accesses or uses one of these applications, an update about that the
23 user’s access or use of that application may appear on the user’s profile page.

24 46. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP
25 address. These logs may contain information about the actions taken by the user ID or IP
26 address on Facebook, including information about the type of action, the date and time of
27 the action, and the user ID and IP address associated with the action. For example, if a
28

1 user views a Facebook profile, that user's IP log would reflect the fact that the user viewed
2 the profile, and would show when and from what IP address the user did so.

3 47. Social networking providers like Facebook typically retain additional
4 information about their users' accounts, such as information about the length of service
5 (including start date), the types of service utilized, and the means and source of any
6 payments associated with the service (including any credit card or bank account number).
7 In some cases, Facebook users may communicate directly with Facebook about issues
8 relating to their accounts, such as technical problems, billing inquiries, or complaints from
9 other users. Social networking providers like Facebook typically retain records about such
10 communications, including records of contacts between the user and the provider's support
11 services, as well as records of any actions taken by the provider or user as a result of the
12 communications.

13 48. As explained herein, information stored in connection with a Facebook
14 account may provide crucial evidence of the "who, what, why, when, where, and how" of
15 the criminal conduct under investigation, thus enabling the United States to establish and
16 prove each element or alternatively, to exclude the innocent from further suspicion. In my
17 training and experience, a Facebook user's IP log, stored electronic communications, and
18 other data retained by Facebook, can indicate who has used or controlled the Facebook
19 account. This "user attribution" evidence is analogous to the search for "indicia of
20 occupancy" while executing a search warrant at a residence. For example, profile contact
21 information, private messaging logs, status updates, and tagged photos (and the data
22 associated with the foregoing, such as date and time) may be evidence of who used or
23 controlled the Facebook account at a relevant time. Further, Facebook account activity can
24 show how and when the account was accessed or used. For example, as described herein,
25 Facebook logs the Internet Protocol (IP) addresses from which users access their accounts
26 along with the time and date. By determining the physical location associated with the
27 logged IP addresses, investigators can understand the chronological and geographic
28 context of the account access and use relating to the crime under investigation. Such

1 information allows investigators to understand the geographic and chronological context
 2 of Facebook access, use, and events relating to the crime under investigation. Additionally,
 3 Facebook builds geo-location into some of its services. Geo-location allows, for example,
 4 users to "tag" their location in posts and Facebook "friends" to locate each other. This
 5 geographic and timeline information may tend to either inculpate or exculpate the
 6 Facebook account owner. Last, Facebook account activity may provide relevant insight
 7 into the Facebook account owner's state of mind as it relates to the offense under
 8 investigation. For example, information on the Facebook account may indicate the owner's
 9 motive and intent to commit a crime (e.g., information indicating a plan to commit a crime),
 10 or consciousness of guilt (e.g., deleting account information in an effort to conceal
 11 evidence from law enforcement).

12 49. Therefore, the computers of Facebook are likely to contain all the material
 13 described above, including stored electronic communications and information concerning
 14 subscribers and their use of Facebook, such as account access information, transaction
 15 information, and other account information.

16 **INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

17 50. Pursuant to Title 18, United States Code, Section 2703(g), this application
 18 and affidavit for a search warrant seeks authorization to permit Facebook, and their
 19 representatives and employees, to assist agents in the execution of these warrants. Once
 20 issued, the search warrants will be presented to Facebook with direction that it identify
 21 the account described in Attachment A, as well as other subscriber and log records
 22 associated with the SUBJECT ACCOUNT, as set forth in Attachment B.

23 51. The search warrants will direct Facebook to create an exact copy of the
 24 specified account and records.

25 52. I, and/or other law enforcement personnel will thereafter review the copy of
 26 the electronically stored data, and identify from among that content those items that come
 27 within the items identified in Section II to Attachment B, for seizure.

28

53. Analyzing the data contained in the forensic image may require special technical skills, equipment, and software. It could also be very time-consuming. Searching by keywords, for example, can yield thousands of “hits,” each of which must then be reviewed in context by the examiner to determine whether the data is within the scope of the warrant. Merely finding a relevant “hit” does not end the review process. Keywords used originally need to be modified continuously, based on interim results. Certain file formats, moreover, do not lend themselves to keyword searches, as keywords, search text, and many common e-mail, database and spreadsheet applications do not store data as searchable text. The data may be saved, instead, in proprietary non-text format. And, as the volume of storage allotted by service providers increases, the time it takes to properly analyze recovered data increases, as well. Consistent with the foregoing, searching the recovered data for the information subject to seizure pursuant to this warrant may require a range of data analysis techniques and may take weeks or even months. All forensic analysis of the data will employ only those search protocols and methodologies reasonably designed to identify and seize the items identified in Section II of Attachment B to the warrant.

54. Based on my experience and training, and the experience and training of other agents with whom I have communicated, it is necessary to review and seize a variety of messenger communications, chat logs, files, payment records and documents, that identify any users of the SUBJECT ACCOUNT and communications sent or received in temporal proximity to incriminating messages that provide context to the incriminating communications.

CONCLUSION

55. Based on the facts set forth in this affidavit, there is probable cause to believe that Wilke, Williams, and potentially other co-conspirators have committed conspiracy in violation of 18 U.S.C. § 371; theft of public property in violation of 18 U.S.C. § 641; depredation of public property in violation of 18 U.S.C. § 1361; trafficking in unlawfully harvested timber in violation of the Lacey Act, 16 U.S.C. §§ 3372(a)(1) and 3373(d);

1 setting timber afire in violation of 18 U.S.C. § 1855; using fire in furtherance of a felony
2 in violation of 18 U.S.C. § 844(h)(1); and making false statements in violation of 18 U.S.C.
3 § 1001.

4 56. Based on the forgoing, I request that the Court issue the proposed search
5 warrants. This Court has jurisdiction to issue the requested warrants because it is “a court
6 of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A)
7 & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that - has
8 jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i). Pursuant to
9 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the
10 service or execution of this warrant. Accordingly, by this Affidavit and Warrant, I seek
11 authority for the government to search all of the items specified in Section I, Attachment
12 B, and specifically to seize all of the data, documents and records that are identified in
13 Section II to that same Attachment.

14 
15 David Jacus
16 Law Enforcement Officer, USFS

17 The above-named agent provided a sworn statement attesting to the truth of the
18 contents of the foregoing affidavit by telephone on this 20 day of November, 2019.

19 
20 THE HONORABLE DAVID W. CHRISTEL
21 United States Magistrate Judge
22
23
24
25
26
27
28

ATTACHMENT A

The electronically stored data, information, and communications contained in, related to, and associated with, including all preserved data associated with Facebook, Inc. account cassie.jean.bebereia (the “SUBJECT ACCOUNT”), as well as all other subscriber and log records associated with the accounts, which are located at premises owned, maintained, controlled or operated by Facebook, Inc. a social media application provider headquartered at 1601 Willow Road, Menlo Park, California, 94025.

ATTACHMENT A - 1
USAO #2019R00380

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. (“Facebook”), regardless of whether such information is located within or outside of the United States, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for the SUBJECT ACCOUNT listed in Attachment A:

- (a) All contact and personal identifying information, including for user IDs: full name, user identification number, birth date, gender, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them, including Exchangeable Image File ("EXIF") data and any other metadata associated with those photos and videos;
- (d) All records or other information regarding the devices and internet browsers associated with, or used in connection with, that user ID, including the hardware model, operating system version, unique device identifiers, mobile network information, and user agent string;
- (e) All other records and contents of communications and messages made or received by the user, including all Messenger activity, private messages, chat history, video and voice calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;

1 (g) All IP logs, including all records of the IP addresses that logged into the
2 account;

3 (h) All information about the Facebook pages that the account is or was a "fan"
4 of;

5 (i) All past and present lists of friends created by the account;

6 (j) All records of Facebook searches performed by the account;

7 (k) All privacy settings and other account settings, including privacy settings for
8 individual Facebook posts and activities, and all records showing which
9 Facebook users have been blocked by the account;

10 (l) All records pertaining to communications between Facebook and any person
11 regarding the user or the user's Facebook account, including contacts with
12 support services and records of actions taken.

13 Facebook is hereby ordered to disclose the above information to the government
14 within 14 days of service of this warrant.

15 II. Information to be seized by the government

16 All information described above in Section I that constitutes fruits, evidence and
17 instrumentalities of violations of 18 U.S.C. § 371, 18 U.S.C. § 641, 18 U.S.C. § 1361, 16
18 U.S.C. §§ 3372(a)(1) and 3373(d), 18 U.S.C. § 1855; 18 U.S.C. § 844(h)(1), and 18 U.S.C.
19 § 1001, since April 1, 2018, limited to the following:

20

- 21 • All information relating to logging, timber poaching, chain saws, trips into any
22 United States national forests, and the possession, transportation, storage, or sale of
23 timber, including maple wood;
- 24 • All information relating to forest fires or arson, and particularly to the "Maple Fire"
25 that began in the Elk Lake area of the Olympic National Forest on August 4, 2018;
- 26 • All communications with or relating to Alan Richert, Shawn Williams, Lucas
27 Chapman, Jason Roberts, Sondra Palafox, Samuel Davies, and Marty Thompson;

- 1 • All communications relating to Justin Wilke's locations between April and
- 2 September 2018;
- 3 • All communications relating to Justin Wilke's and Cassie Bebereia's whereabouts
- 4 between August and December 2018;
- 5 • All photographs of Justin Wilke between April 2018 and September 2018;
- 6 • Evidence indicating the Facebook account owner's or Justin Wilke's state of mind
- 7 as it relates to the crimes under investigation;
- 8 • Evidence of Justin Wilke's appearance from June-August 2018;
- 9 • Evidence showing what type of dog, if any, Justin Wilke or Cassie Bebereia had in
- 10 2018; and
- 11 • Evidence bearing on the identity of the person(s) who created or used the user ID,
- 12 including records that help reveal the whereabouts of such person(s).

13 This warrant authorizes a review of electronically stored information,
14 communications, other records and information disclosed pursuant to this warrant in order
15 to locate evidence, fruits, and instrumentalities described in this warrant. The review of
16 this electronic data may be conducted by any government personnel assisting in the
17 investigation, who may include, in addition to law enforcement officers and agents,
18 attorneys for the government, attorney support staff, and technical experts. Pursuant to this
19 warrant, the FBI may deliver a complete copy of the disclosed electronic data to the custody
20 and control of attorneys for the government and their support staff for their independent
21 review.